

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
City of Mission Viejo
Council Chambers
200 Civic Center
Mission Viejo, California

MINUTES OF MEETING
FEBRUARY 11, 2015

At 9:15 a.m., Chairman Abarbanel called to order the meeting of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at the City of Mission Viejo City Council Chambers, 200 Civic Center, Mission Viejo, California.

Item 1 – Roll Call and Introductions

Board Members present: Henry Abarbanel, Eric Anderson, Tomás Morales, Betty Olson Gary Strawn, and Stefanie Warren. Ms. Warren left the meeting at 1:50 p.m.

Dr. Olson introduced herself and made a few remarks.

Staff Present: David Gibson, James Smith, Chris Blank, David Barker, Julie Chan, Jeremy Haas, Eric Becker, Chiara Clemente, Chad Loflen, John Odermatt, Brandi Outwin-Beals, Christina Arias, Wayne Chiu, Fisayo Osibodu, Laurie Walsh.

Others present on behalf of the San Diego Water Board: State Water Resources Control Board –State Water Board Chair Felicia Marcus, Catherine Hagan, Adriaña Nunez. California Court Reporting – Jaqueline Delinger.

Public Attendance: Sandra Jacobson, South Coast Steelhead Coalition; Roger Butow, Clean Water Now; Mike Beanan, South Laguna Civic Association; Cindy Forbes, Division of Drinking Water; Mike Wehner, Orange County Water District; Shane Trussell, Trussell Technologies; Eric Stein, SCCWRP; Randy Barnard, Division of Drinking Water; John Helminski, City of San Diego; Allen Carlisle, Padre Dam MWD; Andy Webster, Rancho California Water District; Chris McKinney, City of Escondido; Dan Ferons, Santa Margarita Water District; Toby Roy, San Diego County Water Authority; Michael McSweeney, BIA San Diego; S. Wayne Rosenbaum, BIA; Richard Gardner; Dr. Cindy Lin, USEPA; Mary Anne Skorpanich, County of Orange; Ryan Baron, County of Orange; Chris Crompton, County of Orange; Jo Ann Weber, County of San Diego; Jon Van Rhyn, County of San Diego; Ruth Kolb, City of San Diego; Sumer Hasenin, City of San Diego; Heather Stroud, City of San Diego; David Garcia, RCFC & WCD; Matt O'Malley, San Diego Coastkeeper; Marco Gonzalez, Coastal Environmental Rights Foundation; Mark Grey, BIA Orange County; Devin Slaven, City of Lake Forest; Tracy Ingerbrigtsen, City of Laguna Beach; Ray Hiemstra, Orange County Coastkeeper; Penny Elia, Sierra Club; Al Lau, Padre Dam MWD; Laura Eisenberg, RMV; Jenna Voss, County of Orange; Christy Suppes, County of Orange; Nancy Palmer, City of Laguna Niguel; Michael Welch; Mo Lahsaie, City of Oceanside; Rich Schlesinger, City of

Mission Viejo; Moy Yahye, City of Aliso Viejo/Laguna Woods; Rae Beimer, City of Rancho Santa Margarita; Deborah Carson, City of Mission Viejo; Rosemarie Chora, City of Oceanside; Megan Schneider, MNWD; Joone Lopez, MNWD; Joe Ames, City of Mission Viejo; J.C. Herrera, City of Laguna Niguel; Shelley Lawrence, Balk Biological; Wendy Rogers, Balk Biological; Bryn Evans, Dudek; Lisa Zawaski, Dana Point; Maria Mariscal, San Diego County Water Authority; Tom Roy, San Diego County Water Authority; Matt Tucker, County of Orange; Peter Meier, City of Lake Forest; Kareem Zayed, County of Orange; Christina Stege, County of Orange; Mike Fennessy, County of Orange; Rebecca Andrews, BBK Law; James Fortuna, County of Orange; June Wheaton, U.S. Navy; Richard Boon, County of Orange; Robin LaMont, Orange County Parks; Betty Burnett, South Orange County Wastewater Authority; Daniel Apt, RBF; Paul Hartinger, Larry Walker Associates; Mary Vondrak, City of San Clemente; Mikhail Ogua, City of Del Mar; Todd Snyder, County of San Diego; Venkat Gummadi, Geosyntec; Akram Bassyouni, City of San Diego; Eric Mosulgo, City of San Diego; Jonard Talamayan, City of San Diego; Ben Syz, Brown & Winters; Humza Javed, City of Laguna Hills.

Item 2 – Public Forum

Sandra Jacobson, Coordinator of the South Coast Steelhead Coalition, provided an update of the steelhead monitoring program in the upper San Diego River.

Roger Butow, Executive Director of Clean Water Now, addressed the Board regarding several concerns.

Mike Beanan of the South Laguna Civic Association spoke about water quality issues affecting Laguna Beach and requested maps of the coastal water bodies.

Item 3 – Minutes of Board Meeting: December 11, 2014

Mr. Morales moved to accept the minutes, and Mr. Strawn seconded the motion. The minutes were unanimously approved.

Item 4 – Chairman's, Board Members', State Water Board Liaison's, and Executive Officer's Reports. These items are for Board discussion only. No public testimony will be allowed, and the Board will take no formal action.

Mr. Morales thanked former Board Member Sharon Kalemkiarian for her service on the Board.

Ms. Marcus provided an update on State Board activities.

Mr. Strawn reported on a course he audited at Cal State San Marcos called "Survey of Water Management in Southern California." The university is planning to expand it and offer it as a two-credit course in the Spring, and he encouraged anyone who might be interested to look into it.

Ms. Warren updated the Board and the public regarding community outreach efforts.

Mr. Anderson stated that he had had the opportunity to attend the ground breaking ceremony for the construction of the San Luis Rey Wetland Mitigation Bank.

Item 5 – Future Agenda Items: Board Members may discuss items for possible inclusion on future agendas. No action will be taken. (*David Gibson*)

This item was postponed to the next meeting.

Consent Calendar: Item 6 is considered a non-controversial issue. (NOTE: If there is public interest, concern, or discussion regarding any consent calendar item or a request for a public hearing, then the item(s) will be removed from the consent calendar and considered after all other agenda items have been completed.)

Item 6 – New WDRs: Waste Discharge Requirements for the United States Navy Remote Training Site Wastewater Treatment Plant, Warner Springs, San Diego County (Tentative Order No. R9-2015-0012). (*Fisayo Osibodu*)

Dr. Abarbanel suggested moving Item 9 to the Consent Calendar, and there were no objections.

Item 9 – Tentative Resolution: Tentative Resolution in Support of Funding Projects that Further the Practical Vision with Consideration to Disadvantaged Communities and Recovery of Streams, Wetlands, and Riparian Systems (Tentative Resolution No. R9-2015-0020). (*Chiara Clemente*)

A motion was made by Mr. Strawn and seconded by Mr. Anderson to adopt the Consent Calendar, including Item 9. The Board Members voted “aye.” The Consent Calendar, with the addition of Item 9, was adopted unanimously.

Item 8 was taken out of order.

Item 8 – Information Item: Meeting Statewide Recycled Water Goals by 2020—Progress and Challenges in the San Diego Region. (*Julie Chan and Fisayo Osibodu*)

Fisayo Osibodu gave the staff presentation.

Cindy Forbes presented information regarding the Division of Drinking Water program and responded to Board Member questions.

Dr. Abarbanel called a recess at 10:45 a.m. and reconvened the meeting at 10:55 a.m.

The following stakeholders spoke on this matter:

- Michael Wehner
- Shane Trussell
- Eric Stein
- Randy Barnard
- John Helminski
- Andy Webster
- Chris McKinney
- Dan Ferons
- Toby Roy
- Mike McSweeney

Dr. Abarbanel recessed for lunch and Closed Session at 1:04 p.m., and he announced that during Closed Session, the Board would discuss Item 15, Personnel matters. He reconvened the meeting at 1:45 p.m., reporting that based on evaluation of the Executive Officer's performance review, the board authorizes the maximum allowable salary increase for the Executive Officer.

Remainder of the Agenda (Non-Consent Items):

Item 7 – Update on the Implementation of the Practical Vision and Operational Plan for 2015. (*David Gibson*)

This item was postponed to a future meeting.

At the request of Ms. Warren, and with no objections from other Board Members, Item 11 was taken out of order.

Item 11 – Election of Regional Board Chair and Vice Chair for 2015. (*David Gibson*)

Ms. Warren nominated Dr. Abarbanel for another term as Chair, and Mr. Morales seconded the motion. Dr. Abarbanel nominated Mr. Strawn for another term as Vice Chair, and Mr. Anderson seconded the motion. The Board unanimously approved the nominations.

Item 10 – NPDES Permit Amendment: An Order to amend Order R9-2013-0001, NPDES No. CAS0109266, *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region.* The amendment includes, but is not limited to, incorporation of the County of Orange, several incorporated Cities of Orange County, and the Orange County Flood Control District as Copermittees (Tentative Order No. R9-2015-0001). (*Laurie Walsh and Christina Arias*) **Please Note: Elected officials will be invited to speak on this item no sooner than 1:30 p.m.**

Ms. Warren recused herself from this item and left the meeting at this time.

Dr. Abarbanel administered the oath.

Christina Arias gave the staff presentation for this item and responded to Board Member questions.

The following stakeholders commented on the Tentative Order:

- Cindy Lin
- Chris Crompton
- Ryan Baron
- Mary Anne Skorpanich
- Joanne Weber
- Jon Van Rhyn
- Ruth Kolb
- Sumer Hasenin
- Heather Stroud
- David Garcia
- Roger Butow
- Mike Beanan
- Matt O'Malley
- Marco Gonzalez
- Mike McSweeney
- Wayne Rosenbaum
- Mark Grey
- Devon Slaven
- Tracy Ingerbritsen
- Richard Gardner
- Ray Hiemstra

Dr. Abarbanel called recesses at 3:26 p.m. (reconvened at 3:32 p.m.) and at 5:20 p.m. (reconvened at 5:31 p.m.)

Laurie Walsh provided closing remarks and recommended that the Board adopt the Tentative Order with enumerated errata.

Dr. Abarbanel closed the public hearing. After Board discussion, Dr. Abarbanel moved to approve Tentative Order No. R9-2015-0001 with all errata, and Mr. Morales seconded the motion. A roll call vote was taken, and each member present individually voted "aye." Ms. Warren recused herself from participation in this matter and was not present during the item. The motion passed.

Item 12 – *Closed Session* - Discussion of Ongoing Litigation [Authorized under Government Code Section 11126, subd. (e)]. The San Diego Water Board may meet in closed session to discuss ongoing litigation for the following cases:

Civil Actions (Judicial and Administrative, other than Petitions for Review filed with the State Water Board)

- a. *In re: Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-001, (NPDES No. CAS0108758) Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority adopted on January 24, 2007. Test Claim filed by San Diego County, et al., with Commission on State Mandates, No. 07-TC-09 (filed June 2008). (Catherine George Hagan)*
- b. *State of California Department of Finance, State Water Resources Control Board, And California Regional Water Quality Control Board, San Diego Region v. Commission on State Mandates. Petition for Writ of Administrative Mandamus. Sacramento County Superior Court, Case No. 34-2010-80000604 (filed July 2010). (Catherine George Hagan)*
- c. *In re: Citizens Development Corporation, Debtor and Debtor in Possession, Case No. 10-15142-LT11. United States Bankruptcy Court, Southern District of California. (San Diego Water Board Claim in Bankruptcy) (filed June 2011). (Catherine George Hagan)*
- d. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2009-0002, (NPDES No. CAS0108740) Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of Orange, the Incorporated Cities of the County of Orange, and the Orange County Flood Control District adopted on December 16, 2009. Test Claim filed by County of Orange, et al., with Commission on State Mandates, No. 10-TC-11 (filed June 2011). (Catherine George Hagan)*
- e. *Test Claim on California Regional Water Quality Control Board, San Diego Region, Order No. R9-2010-0016 (NPDES No. CAS0108766) adopted November 10, 2010, County of Riverside, Riverside County Flood Control and Water Conservation District, and the Cities of Murrieta, Temecula and Wildomar, Co-Claimants, filed with Commission on State Mandates, No. 11-TC-03 (filed November 2011). (Catherine George Hagan)*
- f. *City of San Diego v. California Regional Water Quality Control Board, San Diego Division, SFPP, L.P., A Delaware Limited Partnership, and Kinder Morgan Energy Partners, L.P., A Delaware Limited Partnership, Real Parties-*

in-Interest. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2013-00047614-CU-WM-CTL (filed May 2013). (*Ben Neill*)

- g. *Coastal Environmental Rights Foundation, a CA non-profit public benefit corporation v. California Regional Water Quality Control Board, San Diego Region*. Petition for Writ of Administrative Mandamus. San Diego County Superior Court, Case No. 37-2014-00038672-CU-WM-CTL (filed November 2014). (*Ben Neill*)

Petitions for Review Pending Before State Water Resources Control Board¹

- h. Petition of Citizens Development Corporation (Water Code Section 13267 Investigative Order No. R9-2011-0033 dated September 14, 2011, Requiring Submission of Technical Reports Pertaining to Investigation of Lake San Marcos Nutrient Impairment, San Diego County), SWRCB/OCC File A-2185, filed October 2011. (*Laurie Walsh*)
- i. Petition of City of San Diego (Time Schedule Order No. R9-2011-0052 dated September 14, 2011, for the Kinder Morgan Energy Partners, Mission Valley Terminal Remediation Dewatering Discharge to Murphy Canyon Creek, San Diego County), SWRCB/OCC File A-2186, filed October 2011. (*Ben Neill*)
- j. Petitions for Review of San Diego Bay Shipyard Sediment Cleanup and Abatement Order No. R9-2012-0024 for Campbell Industries, City of San Diego, San Diego Gas & Electric (SDG&E) and San Diego Unified Port District (Port District) issued March 14, 2012. Petitions for Review and Requests for Stay filed by NASSCO, and City of San Diego. Petitions for Review w/o requests for stay filed by SDG&E, Star & Crescent Boat Company and Port District. SWRCB/OCC File A-2205(c), (d), and (e), filed April 2012. (*Frank Melbourn*)
- k. Petition of South Laguna Civic Association for Review of Order No. R9-2012-0013, NPDES No. CA0107611, NPDES Permit Reissuance: South Orange County Waste Authority, Discharges to the Pacific Ocean via Aliso Creek Ocean Outfall, adopted April 11, 2012, SWRCB/OCC File A-2211, filed May 2012. (*Joann Lim*)
- l. Petition of City of San Diego for Review of Resolution No. R9-2012-0045, re Authorizing Executive Officer to Increase Daily Average Discharge Flow Rate Limitation under Order No. R9-2008-0002 [NPDES No. CAG919002] for the Kinder Morgan Energy Partner's Mission Valley Terminal Remediation Dewatering Discharge to Murphy Canyon Creek, June 13, 2012, SWRCB/OCC File A-2222, filed July 2012. (*Ben Neill*)

¹ Petitions for review of San Diego Water Board actions or inactions filed with the State Water Board being held in abeyance by the State Water Board are generally not listed in the agenda. The titles of these matters are available at the San Diego Water Board. Please contact Catherine George Hagan at catherine.hagan@waterboards.ca.gov or 619-521-3012 for more information.

- m.* Petitions for Review of Regional Municipal Separate Storm Sewer System Order No. R9-2013-0001 (NPDES No. CAS0109266), adopted May 8, 2013, filed by (1) San Diego County Regional Airport Authority (stay requested), (2) City of Lake Forest (abeyance request), (3) City of Aliso Viejo (abeyance request), (4) City of Laguna Hills (abeyance request), (5) City of Rancho Santa Margarita (abeyance request), (6) City of Chula Vista, (7) City of National City, (8) Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Cities of Murrieta, Temecula, and Wildomar (abeyance request), (9) City of Dana Point (abeyance request), (10) City of Mission Viejo (abeyance request), (11) City of San Clemente (abeyance request), (12) County of Orange and Orange County Flood Control District (abeyance request), (13) San Diego Unified Port District, (14) City of San Diego (abeyance request), (15) County of San Diego, and (16) City of Laguna Niguel. SWRCB/OCC File A-2254(a)-(p), filed June 2013. (*Wayne Chiu*)
- n.* Petition of San Diego United Port District, Waste Discharge Requirements Order No. R9-2013-0093 for San Diego Shipyard Sediment Remediation Project, San Diego Bay, San Diego County, July 10, 2013, SWRCB/OCC File A-2263, filed August 2013 (stay requested). (*Alan Monji*)
- o.* Petition of Donan Environmental Services, Inc., Cleanup and Abatement Order No. R9-2013-0022 at the Site of the Former Santa Ysabel Chevron Station, 30350 Highway 78, Santa Ysabel, San Diego County, September 18, 2013, SWRCB/OCC File A-2277, filed October 2013. (*Sean McClain*)
- p.* Petition of Kinder Morgan Energy Partners, L.P., for Review of Denial of Request to Rescind or Modify Time Schedule Order No. R9-2011-0052, November 26, 2014, SWRCB/OCC File A-XXXX, Filed December 23, 2014 (Stay Requested). (*Ben Neill*)

This Closed Session was not held.

Item 13 – *Closed Session* - Consideration of Initiation of Litigation or Discussion of Significant Exposure to Litigation. The San Diego Water Board may meet in closed session to initiate or consider initiating litigation concerning matters within its jurisdiction or to discuss significant exposure to litigation [Authorized under Government Code Section 11126(e)].

This Closed Session was not held.

Item 14 – *Closed Session* - Deliberation on a Decision to be Reached Based on Evidence Introduced in a Hearing. The San Diego Water Board may meet in closed session to consider evidence received in an adjudicative hearing and to deliberate on a decision to be reached based upon that evidence [Authorized under Government Code Section 11126(c)(3)].

This Closed Session was not held.

Item 15 – Closed Session – Personnel. The San Diego Water Board may meet in closed session to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing [Authorized under Government Code Section 11126(a)].

In Closed Session, the Board discussed Item 15, Personnel, pursuant to Government Code section 11126(a). The Board reported that based on its performance evaluation, it authorizes the maximum allowable raise for the Executive Officer.

There being no further business, the meeting was adjourned at 5:57 p.m.

These minutes were prepared by:

Signed by:

Chris Blank
Executive Assistant

David Gibson
Executive Officer